

Matthew Scott

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Volume: 1

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:17-CV-10161

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ELISABETH DOHERTY,

Plaintiff,

v.

AMERICAN INTERNATIONAL COLLEGE,

Defendant.

-----x

DEPOSITION OF MATTHEW E. SCOTT

March 21, 2018

1:26 p.m. - 3:08 p.m.

BOWDITCH & DEWEY

200 Crossing Boulevard

Framingham, Massachusetts

Reporter: Penni L. LaLiberté, CSR

Matthew Scott

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1 **A P P E A R A N C E S:**

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18

19 **ALSO PRESENT:**

20 **CHELSIE VOKEYS**

21

22

23

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Matthew Scott

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1 **I N D E X**

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3 MATTHEW E. SCOTT	
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5 BY ATTORNEY ANGUEIRA	4
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21 ***No exhibits were marked during the deposition.**

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Matthew Scott

PROCEEDINGS

MATTHEW E. SCOTT,

3 having been satisfactorily identified and duly sworn
4 by the Notary Public, was examined and testified as
5 follows:

DIRECT EXAMINATION

BY MR. ANGUEIRA:

Q. Good afternoon.

A. Hi.

Q. What is your name?

A. Matthew Scott.

13 Q. Mr. Scott, I'm an attorney for Ms. Doherty
14 and this is a deposition. Have you ever had a
15 deposition before?

16 A. I have not.

17 Q. All right. If you don't understand any
18 question I ask you, please let me know. Always
19 answer verbally. By that I mean words as opposed to
20 gestures and sounds. If you begin to speak before I
21 finish my question, I'll raise my hand just as an
22 indicator that I haven't finished. Please allow me
23 to finish, and then you can answer the question to
24 make sure we get an accurate transcription.

Matthew Scott

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1 If you need a break for any reason,
2 just let me know, and we'll be happy to accommodate
3 you. All right?

4 A. Yes.

5 Q. What's your home address?

6 A. 145 Emerson Street, Springfield, Mass.

7 01118.

8 Q. And are you currently employed?

9 A. Yes.

10 Q. By whom?

11 A. American International College.

12 Q. And what do you do for them?

13 A. I'm their dean of students.

14 Q. And how long have you been the dean of
15 students?

16 A. Since January of 2017.

17 Q. All right. And when did you start working
18 with the American International College?

19 A. It would be 2014, so July I believe of
20 2014.

21 Q. And what was your first position with
22 them?

23 A. Actually, hold on, sorry.

24 Q. It's okay.

Matthew Scott

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1 A. It wasn't 2014. It was -- so it would
2 have been 2013. I apologize.

3 Q. And what was your first position with
4 them?

5 A. Director of residence life.

6 Q. And for how long did you hold that
7 position?

8 A. It would have been for about three years.

9 Q. And then what position did you assume?

10 A. Associate dean of students.

11 Q. And for how long were you the associate
12 dean?

13 A. So it was about a year I guess before the
14 dean of students position.

15 Q. And then became dean of students?

16 A. Correct.

17 Q. And what were your duties and
18 responsibilities as the director of residence life?

19 A. So I was responsible for all of the
20 housing on campus as well as overseeing the conduct
21 system on campus, and I was also a -- the deputy
22 Title 9 coordinator.

23 Q. And when did you become the deputy Title 9
24 coordinator?

Matthew Scott

1 A. It was part of the job description of the
2 director of residence life.

3 Q. Was there a Title 9 coordinator?

4 A. Yes.

5 Q. And who was that person?

6 A. That was Nicolle Cestero.

7 Q. And in your role as the deputy Title 9
8 coordinator what were your duties and
9 responsibilities?

10 A. The majority of the duties were mainly in
11 the absence of the Title 9 coordinator, I was
12 somebody that people could report to or they could
13 come and speak with. But the majority of them
14 were -- the daily responsibilities were just kind of
15 overseeing education and ensuring that the
16 resident -- especially the residence life staff
17 understood the responsibilities when it came to
18 reporting and following up on Title 9 matters.

19 Q. All right. And can you give us a more
20 definite time period, perhaps a month, of when you
21 became the associate dean -- I'm sorry, when you
22 first became the deputy Title 9 coordinator.

23 A. So that would be when I assumed the role
24 of director of residence life. So it would be -- so

Matthew Scott

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1 it would have been -- I'm trying to remember if it
2 was June or July at this point, but it was June or
3 July of 2013.

4 Q. Okay. Now, when you became deputy Title 9
5 coordinator, had you received any training or
6 education in Title 9 matters?

7 A. Prior to assuming or once I assumed the
8 role?

9 Q. Prior to assuming.

10 A. Yes.

11 Q. Okay. And prior to assuming that title,
12 what type of training or education did you receive
13 with Title 9 matters?

14 A. So I had served as a residents director, a
15 hall director, at a previous institution, so they
16 required us to have training in Title 9, sexual
17 misconduct, there's some training there. And you're
18 specifically talking about Title 9, not just sexual
19 misconduct?

20 Q. Correct.

21 A. So in that role we had training. And then
22 also when I was at UMass Amherst in a different role
23 we also were required to have training, but that was
24 more around reporting and the responsibilities as an

Matthew Scott

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1 employee to report.

2 Q. What's the other institution where you had
3 the Title 9 training?

4 A. Well, now it's Western New England
5 University, used to be Western New England College.

6 Q. Describe the training that you received in
7 the Title 9 matters at the Western New England
8 School.

9 A. I couldn't say for certain everything. I
10 mean it was -- the trainings were, you know, about
11 certainly obligation to report. They were trainings
12 about victims of trauma and how they might respond
13 in situations when they are a victim of trauma. And
14 confidentiality, that was definitely a piece of it.
15 But other than that, I can't -- it's been a while.

16 Q. In terms of what you were trained or
17 educated regarding how victims respond to trauma,
18 what did you learn?

19 A. Prior to this role you mean? Prior to
20 assuming the director of residence life role?

21 Q. We're talking about the training that you
22 received at the other institution, the Western New
23 England.

24 A. Yeah.

Matthew Scott

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1 Q. We're going to break up the training
2 chronologically, so if we can just stick with that.

3 A. Sure. So at the time I was -- I was an
4 EMT as well, so I had a lot of training in -- in
5 what responses -- victim responses to trauma. In
6 that particular case, when I was at Western New
7 England, you know, we would talk about how a
8 victim's memory might not be -- you know, they might
9 not always be able to recall every piece of an
10 incident or a situation, that the -- that they could
11 be reminded; you know, sometimes things will come up
12 as you're speaking with them, and they might be
13 reminded of things. So a lot of that is talking
14 about if you're ever in a role of trying to take in
15 information, assessing credibility -- assessing if
16 you can credibility. Sometimes it's very difficult
17 in those situations.

18 So that's -- again I can't remember
19 specific details of any of the trainings, but I
20 certainly know that that was a piece of it because
21 we did have many discussions about that.

22 Q. And do you recall whether or not you had
23 any subsequent training in the area of recognizing
24 the symptoms of victims of trauma?

Matthew Scott

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1 A. Subsequent to --

2 Q. The one you just described at Western
3 New England.

4 A. Yes. When I as an EMT we certainly had
5 training on that. I worked for American Medical
6 Response, AMR, so they provided training that we had
7 to go to. We had to take continuing education
8 courses. And that was, you know, something that was
9 becoming -- especially with the Dear Colleague
10 letter at that time, the Dear Colleague letter and
11 things that were coming out. We had a lot of
12 colleges in the area, so we did have to respond to
13 the colleges. So it was something they relied quite
14 a bit on us.

15 Q. And when you refer to the "Dear Colleague
16 letter," are you referring to the DOE letter, the
17 Department of Education letter?

18 A. Yes.

19 Q. And were you familiar with the contents of
20 that letter?

21 A. Yes.

22 Q. And did you have to review that and
23 understand that in conjunction with your job as an
24 EMT?

Matthew Scott

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1 A. It was -- we did not have to read that --
2 that entire document, but we did have to -- because
3 of our interaction with the college campuses, we
4 were required to have a basic understanding of what
5 colleges were obligated to report. Because many
6 times we would be called to college campuses, and
7 based on our training we wouldn't necessarily think
8 it was as necessary for us to be there, but we knew
9 that the college campuses were obligated to report
10 things so --

11 Q. Now, in your role as a deputy Title 9
12 coordinator did you become familiar with the
13 contents of the Dear Colleague letter?

14 A. Yes.

15 Q. And had you read it in its entirety?

16 A. Yeah. I would say I did, yeah.

17 Q. Did you understand the rights that victims
18 of Title 9 violations have?

19 A. Yes.

20 Q. Did you understand that it was the
21 college's responsibility that when allegations of
22 sexual misconduct are reported to it that the
23 college is to conduct a prompt and reasonable
24 investigation?

Matthew Scott

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1 A. Yes.

2 Q. Did you also understand it was the
3 college's responsibility to maintain a safe
4 environment for the victims during the course of the
5 investigation?

6 A. Yes.

7 Q. Did you understand that during the course
8 of the investigation if the college received any
9 evidence that the victim was concerned about her
10 safety due to retaliation by either the person who
11 had committed the act against her or any friends or
12 associates of that person, that that is something
13 that should be investigated as well?

14 MS. SULLIVAN: Objection. You can
15 answer.

16 THE WITNESS: Yes.

17 BY MR. ANGUEIRA:

18 Q. And did you understand it was the school's
19 obligation to conduct a full and thorough
20 investigation regarding any potential retaliation
21 against the victim?

22 MS. SULLIVAN: Objection. You can
23 answer.

24 THE WITNESS: To the extent that a

Matthew Scott

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1 victim -- to the extent that someone comes forward
2 and tells us that they would like us to move
3 forward, it's a very sensitive situation when
4 someone comes forward with a complaint, we take our
5 lead from them many times, unless it's something
6 that we feel is a -- is a larger threat to the
7 institution.

8 So, yes, I am aware and was aware
9 that if somebody brings a complaint forward and says
10 they would like us to move toward and do something
11 with that, we will; however, it's important to note
12 that many times college students, if they do come
13 forward with something, they often will specifically
14 either tell us not to move forward with it, or they
15 would say I just want you to have this for the
16 record just in case something comes up in the
17 future. Because they're very sensitive to their --
18 the image or they're very sensitive to the way that
19 it could impact their -- you know, their
20 relationships on campus so -- but yes.

21 BY MR. ANGUEIRA:

22 Q. Was it your understanding that as a
23 Title 9 coordinator, a deputy coordinator, that if a
24 student reported that she had been raped on campus

Matthew Scott

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1 to the institution and said she does not want the
2 Title 9 investigation, that the college cannot
3 conduct a Title 9 investigation?

4 A. No. We still have to conduct a
5 reasonable -- while protecting as many -- you know,
6 we have to protect the privacy as best we can. We
7 do still have to conduct an investigation. It's
8 whether or not we move forward with a formal hearing
9 and, you know, how we conduct the investigation, who
10 we pull in. So we do modify, if we can, if it's the
11 first report that we have from the alleged victim or
12 the alleged perpetrator or complainant/respondent,
13 then, yes, we will investigate, but we determine --
14 we take our lead from them if we can as to whether
15 or not we move forward with a formal hearing.

16 Q. And certainly if the victim is willing to
17 participate in the investigation and wants the
18 college to conduct the investigation, then you
19 understand it's the school's obligation to conduct a
20 full and thorough investigation, correct?

21 A. Correct.

22 Q. You were one of the panel members on the
23 Doherty matter?

24 A. Correct.

Matthew Scott

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1 Q. And the other panel members were whom?

2 A. It was Bruce Johnson and Nila Lenna.

3 Q. Okay. Prior to the Doherty hearing, how
4 many Title 9 hearings had you actually been on?

5 A. Prior to the Doherty matter I hadn't
6 served on a hearing board for a Title 9 matter;
7 however, I did oversee the conduct process which was
8 very similar, and I had to serve on many hearing
9 boards and just formal conduct meetings with
10 students.

11 Q. And how are conduct hearings very similar
12 to a Title 9 investigation and hearing with
13 allegations of rape?

14 A. Just in terms of the process, in terms of,
15 you know, our preponderance of the evidence
16 standard, our -- the manner in which we conduct our
17 investigations. And a hearing board, whether it's
18 for -- whether it's for just a non-sexual misconduct
19 case or a sexual misconduct case, there's a
20 three-person hearing board with the right to the
21 appeal. We give that right. It isn't, you know,
22 something that we have to give, but we do give that
23 right because we believe in it.

24 Q. With respect to your -- as I understand

Matthew Scott

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1 it, you never sat on a board -- a Title 9 hearing
2 board to hear a sexual misconduct hearing before the
3 Doherty matter; is that correct?

4 A. Correct.

5 Q. But you're saying that you did sit on many
6 student conduct hearing boards to hear different
7 types of matters, correct?

8 A. Correct.

9 Q. Were any of those matters related to
10 sexual misconduct?

11 A. Not that I recall, no.

12 Q. Otherwise they'd be a Title 9 hearing,
13 right?

14 A. Correct.

15 Q. So the ones that you dealt with would be
16 dealing with what? Things like violations of the
17 school policy for drugs and alcohol? Would that be
18 one subject area?

19 A. Could be but typically if it's at the
20 level of a board, it's typically, you know, an
21 assault. So if there's a fight between students or
22 something of that nature.

23 Q. Or a threat by one student to another?

24 A. Correct. Which could result -- you know,

Matthew Scott

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1 if it's something that could result potentially in
2 suspension or expulsion from the institution, it
3 would rise to the level of a board.

4 Q. So what other types of student conduct
5 hearings did you actually participate in in terms of
6 the nature of the alleged offense?

7 A. Do you mean on a three-person or just a --
8 because all of our -- the challenge with conduct is
9 conduct is -- conduct on a college campus can be --
10 so, for instance, I could have a one-on-one meeting
11 with an alleged or an accused student, and, you
12 know, it could result in a suspension just from the
13 meeting with me. So in some ways they're
14 interchangeable; however, in cases that are a little
15 bit more -- so like our sexual misconduct cases, we
16 use a three-person hearing board so that it isn't
17 just one person that's making the final decision.

18 But, yes, certainly there was -- you
19 know, there would be -- I'm trying to think through
20 specific cases that I would have sat on;
21 unfortunately, I oversee all conduct, so it's
22 challenging to think back to that timeframe or --
23 because I'm assuming you're asking prior to --

24 Q. The Doherty matter.

Matthew Scott

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1 A. Yeah. So prior to that I wouldn't be able
2 to put my finger on exactly which cases had happened
3 by then and which had happened prior.

4 Q. Okay. By the time that you were seated
5 for the Doherty hearing, had you had any subsequent
6 training in how to investigate and handle Title 9
7 matters?

8 A. You said after?

9 Q. So by the time that you sat on the Doherty
10 hearing --

11 A. Okay.

12 Q. -- had you had any additional training in
13 Title 9 matters that you have not already described
14 for us?

15 A. That I haven't described. Yeah, we had
16 trainings at IAC, at the college, where we had
17 internal trainings where we would conduct trainings
18 with our staff, but then we also had external
19 training from our attorney -- from the attorneys
20 here that would come in, and they did it for us as a
21 whole. So with anybody that was involved in the
22 Title 9 process, in the hearing process,
23 investigation process, we had multiple trainings on
24 that.

Matthew Scott

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1 Q. And were some of the subject matters
2 discussed during that training the types of
3 questions that could be asked of a victim and the
4 types of questions that should not be asked of a
5 victim?

6 A. I can't remember specifically. I've
7 certainly had a lot of training on that, but I can't
8 remember specifically if those types of questions
9 were part of that training. I know I've trained my
10 staff, and I could guarantee that I did before that
11 date, you know, what types of things to ask and how
12 to ask things and -- yeah.

13 Q. When you say that you can guarantee that
14 you trained your staff before that date, are you
15 referring to the hearing date for Ms. Doherty?

16 A. Correct, yes.

17 Q. When you say your staff, what staff did
18 you train in Title 9 matters?

19 A. Sure. So, you know, part of the -- part
20 of my responsibility as overseeing especially
21 residence life is -- we have all of our hall
22 directors in the building, and we have all of our
23 resident advisers, which are undergraduate students
24 on the floor. So, you know, they're not part of the

Matthew Scott

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1 hearing process certainly, and they actually don't
2 have much of a role in an -- actually really any
3 role in the actual investigation. But, you know, we
4 do talk with them; you know, I would conduct
5 training during RA training or RD training about
6 being sensitive to students or anybody that has
7 alleged that they were a victim, whether, you
8 know -- even if you don't know the details, just
9 understanding what they might be going through, that
10 they might have a difficult time recalling, you
11 know, that type of thing. So yeah.

12 Q. Was it your understanding that the college
13 was supposed to follow the OCR guidelines with
14 respect to Title 9 investigations?

15 A. Yes.

16 Q. The investigators that were involved in
17 the investigation of the Doherty matter, what were
18 their names?

19 A. It was Cindy Shiveley and I believe it was
20 Terrence O'Neill.

21 Q. All right. Do you know what their level
22 of experience was in conducting an investigation of
23 a Title 9 matter?

24 MS. SULLIVAN: Objection. You can

Matthew Scott

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1 answer.

2 THE WITNESS: And I don't. I don't
3 know what their experience was.

4 BY MR. ANGUEIRA:

5 Q. Okay. Well, we do know that you never
6 handled a Title 9 hearing before the Doherty matter,
7 so do you know whether or not either of those two
8 investigators had ever even participated in a
9 Title 9 investigation?

10 A. I don't.

11 Q. Of the three panel members that were on
12 that hearing, had any of them ever handled a Title 9
13 hearing?

14 A. I don't know.

15 Q. Well, you know that you didn't, correct?

16 A. Correct.

17 Q. Can you describe for us the level of
18 training, if any, the investigators had received
19 before they investigated the Doherty allegations?

20 MS. SULLIVAN: Objection. You can
21 answer.

22 THE WITNESS: I don't know all of
23 the training, but I do know that they were part of
24 the kind of cohort of people that were -- that would

Matthew Scott

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1 have received the same training that I would have.
2 So that would have been -- prior to that there would
3 have -- there would have been two, I would assume,
4 that I would have gone through with them
5 specifically.

6 BY MR. ANGUEIRA:

7 Q. Two training sessions you mean or
8 something else?

9 A. Yes, two training sessions that I would --
10 that I could say that I would have gone through the
11 same training as them. But I don't know all
12 training that they would have received.

13 Q. And do you know whether or not the
14 investigators are trained in investigative
15 techniques?

16 A. I don't know.

17 Q. Do you know if the investigators are
18 trained in making sure that they speak to all of the
19 available witnesses to make sure they gather all the
20 evidence?

21 A. I should qualify my previous statement.
22 When you say are they -- I do know, because I've
23 seen the content, you know, I went through some of
24 the training, we were all cross-trained. So, you

Matthew Scott

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1 know, we were trained on being on the hearing board
2 or investigation so that we understood what the
3 other side would be doing during something like
4 that. So to the extent of what occurred in those
5 trainings, I know that that was a piece of the
6 training that they received, but I don't know if
7 they had any other training. Especially Cindy was
8 in human resources, and I don't know if they had any
9 sort of -- because of, you know, employee --
10 employee relation suits, I don't know what other
11 types of --

12 Q. Do you know if any of the investigators or
13 for that matter even the hearing officers on the
14 panel were ever trained in determining the
15 credibility of witnesses and how that's done?

16 A. I do know that that was the content of the
17 training that we had received from the -- our
18 attorney's office, but I don't know at which
19 training session that would have been. You know, we
20 have them regularly, so it's difficult for me to
21 remember at what point that was part of it, but that
22 was typically part of our conversation during every
23 training.

24 Q. And was any part of that training dealing

Matthew Scott

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1 with the issues of the memories that a trauma victim
2 may have or not have?

3 A. I don't recall specifically for those
4 trainings. I don't recall.

5 Q. But you certainly had your own training in
6 terms of what trauma can do to a victim's memory,
7 correct?

8 A. Yes.

9 Q. And you learned during the course of your
10 training that there are many times that victims are
11 traumatized, particularly rape victims, and some of
12 them have a total absence of the event; you knew
13 that, right?

14 A. Yes.

15 Q. Many of them have different recollections
16 of what happened and when it happened, correct?

17 A. Correct.

18 Q. Many of them recall different part of the
19 rape or the events in different ways even when you
20 ask them repeatedly about how the event occurred,
21 correct?

22 A. Correct.

23 Q. And none of those issues mean that the
24 person is not telling the truth. It simply means

Matthew Scott

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1 that that's how their memory is working in
2 conjunction with the trauma that they underwent,
3 correct?

4 A. That can be correct, yes.

5 Q. So you shouldn't just discredit the
6 victim's testimony because there may be
7 inconsistencies based on her or his statement alone,
8 correct?

9 MS. SULLIVAN: Objection. You can
10 answer.

11 THE WITNESS: You shouldn't
12 discredit based on -- based on just their
13 recollection alone? Is that what you said?

14 BY MR. ANGUEIRA:

15 Q. Yes.

16 A. Based on just their recollection alone,
17 no, you shouldn't.

18 Q. Because what you have to do is take into
19 account the other evidence including accounts by
20 other witnesses and any other evidence you may have
21 available to you, correct?

22 A. Correct.

23 Q. At this college, when you were going to
24 conduct a Title 9 hearing, was it the protocol to

Matthew Scott

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1 call in live witnesses if they were available or
2 not?

3 A. Typically -- do you mean for the hearing
4 board members to call them in?

5 Q. Yes.

6 A. Typically we wouldn't unless we felt that
7 it would add something based on -- you know, if we
8 had holes that were missing, but we could always --
9 you know, what we would typically do is during any
10 conduct -- if we had separate investigators, they
11 would go out and get more information; however, both
12 the complainant and the respondent are able to
13 produce their own witnesses and provide us with a
14 list of witnesses that they would like to be
15 present, regardless if we were asking to call them
16 in or not.

17 Q. Were you ever trained in any investigative
18 techniques, or in any of your work in conjunction
19 with your educational roles, that one of the best
20 ways to determine the credibility of a witness is to
21 actually see and hear that witness?

22 A. I don't know that I can say that that was
23 part of any training, but I can say that I -- I can
24 understand that statement; however, that is also

Matthew Scott

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1 something that -- based on our training of assessing
2 credibility, that is something that the
3 investigators were -- were doing at the same time
4 as -- because they did meet with -- they heard and
5 saw the witnesses, so they were assessing some of
6 the -- you know, that credibility as they were going
7 through and conducting the investigation.

8 Q. And in the Title 9 investigation that's
9 conducted at your college, if the investigators form
10 opinions about the veracity of credibility of a
11 particular witness, is that information that you as
12 a hearing officer rely upon?

13 A. We reply upon it in -- they do give us
14 details of if they believed somebody was credible
15 and why. But they are instructed not to put their
16 opinions in in terms of, you know, things like this
17 person is lying or, you know, that type of -- those
18 types of statements.

19 But based on incongruities between
20 statements or, you know, someone saying that they
21 were in one place and they weren't, or, you know,
22 there's other evidence to say that they were
23 somewhere else, those are the types of -- or
24 relationships, sometimes relationships between

Matthew Scott

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1 people. So they would put those statements in
2 there, and that would be -- they would tell us that
3 that was the way that they determined if they felt
4 someone was credible.

5 Q. When conducting a Title 9 investigation
6 and determining whether or not a rape occurred, is
7 the nature of the relationship between the rapist
8 and any witnesses supporting that rapist's version
9 of his story a relevant matter? Do you understand
10 my question?

11 A. Yeah, I'm trying to --

12 Q. It was a little awkward.

13 In the course of an investigation,
14 if there's an allegation by a student that she'd
15 been raped by Mr. X, let's say, who is another
16 student, and Mr. X has witnesses that testify in a
17 way to provide evidence that's inconsistent with
18 what the victim says happened, is it part of the
19 investigatory process to determine the relationship
20 between Mr. X and the witnesses supporting his
21 version of the story?

22 MS. SULLIVAN: Objection. You can
23 answer.

24 THE WITNESS: That is typically part

Matthew Scott

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1 of the process. Usually we want to know how people
2 are connected. Especially on a college campus,
3 there are lots of connections going on in lots of
4 different ways. So, yes, typically we will try to
5 find out are they on the same team, are they
6 previous significant others or, you know, something
7 like that.

8 BY MR. ANGUEIRA:

9 Q. Okay. Because if you find out that
10 somebody had a previous relationship or an existing
11 intimate relationship or close friendship, you know
12 that sometimes people will lie for their friends,
13 correct?

14 A. Yes. And so we --

15 Q. That's a matter of life, right?

16 A. Yes.

17 Q. So then part of the role of investigators
18 is to make sure that they understand and provide
19 evidence to you as a hearing officer about the
20 nature of any relationships that witnesses may have
21 to the accuser and the accused, correct?

22 A. Correct.

23 Q. Because it not only applies to the
24 accused, but if a victim has witnesses supporting

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1 her account, then you want to know whether or not
2 there may be any bias or prejudice on those
3 witnesses' part because they're protecting their
4 girlfriend or what have you?

5 A. Absolutely, yes.

6 Q. Do you know what the Cleary Act is?

7 A. Yes.

8 Q. What is it?

9 A. So we are required to report our
10 statistics every year. My role in that is providing
11 the -- well, I reviewed the document, but ultimately
12 it's our campus police that is updating it. I
13 provide the statistics for the conduct referral
14 numbers.

15 Q. Okay. And what were the number of sexual
16 assaults on campus of -- let's say for the five-year
17 period prior to the Doherty sexual assault?

18 A. I don't know that information off the top
19 of my head.

20 Q. Do you have any idea what the numbers were
21 annually?

22 A. I don't. Prior to the Doherty, no.

23 Q. Okay. You were a -- were you the chair of
24 the panel for the Doherty hearing?

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1 A. Yes.

2 Q. Okay. And was that because of your role
3 as the Title 9 coordinator or something else?

4 MS. SULLIVAN: Objection. I just
5 want to clarify, he's not the Title 9 coordinator.

6 MR. ANGUEIRA: That's what I
7 thought.

8 MS. SULLIVAN: Deputy.

9 MR. ANGUEIRA: No, no, that's fine.

10 BY MR. ANGUEIRA:

11 Q. So who asked you to be the chair?

12 A. It would have been Nicolle. So she was
13 the Title 9 coordinator and still is, so she was the
14 one that formed the panel.

15 Q. If you have a Title 9 investigation and
16 simultaneously there's a police investigation
17 regarding the same event, like a rape, was it your
18 understanding that there should be some level of
19 communication between the school and the police --
20 not the campus police, but the outside police, to
21 see if there's any evidence that should be shared
22 between the two to help in the investigation or not?

23 A. That information does not typically get
24 shared very readily. And we also -- that's

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1 partially because the police protect that
2 information, but we also do not wait for a police
3 investigation. So in that situation, you know, we
4 move forward with the information that we can so
5 that we can provide a timely -- we're under very
6 different timelines than the police are, so we need
7 to move forward so that we can resolve the case. So
8 we don't always have the information that the police
9 have, nor can we always wait for it.

10 Q. Did you understand that it was the
11 school's obligation in conjunction with the
12 students' Title 9 rights to provide a reasonably
13 safe environment once a victim of sexual assault
14 reports that to the school?

15 A. Yes.

16 Q. Did you also understand it was the
17 school's obligation to provide that victim of any
18 necessary counseling to assist the rape victim in
19 dealing with those events?

20 A. Yes.

21 Q. What counseling services did this school
22 have available to Ms. Doherty at 2- or 3 o'clock in
23 the morning when she reported the rape?

24 A. So we do have -- we do have licensed, you

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1 know, counselors on campus that are on call that
2 could be called in. I do know that -- let me take a
3 step back. I don't know that, but I believe that
4 Nicolle responded that night to take the initial
5 report. But, you know, unfortunately it isn't
6 uncommon that campuses don't have 24-hour counseling
7 on campus; however, had she requested it from
8 Nicolle, we would have called.

9 We also have access to -- we have
10 relationships with counseling -- I guess you can
11 call them hotlines in the area, so those are all --
12 that's all information that we -- that we have
13 available for all of our students.

14 Q. Are you saying that the student victim has
15 to ask for counseling before the school offers the
16 counseling?

17 A. No. So whenever we meet with a student,
18 we have the Title 9 victim's rights form that we
19 give out, and then we also have what we just call a
20 one-pager. I don't even know what's on it. And
21 that has the phone numbers of local -- if they want
22 to speak with somebody else, it has the phone
23 numbers of local agencies that they can contact as
24 well as the information of our counseling services,

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1 but it's offered. It's something they can take
2 advantage of.

3 MR. ANGUEIRA: Did you want to --

4 MS. SULLIVAN: Yeah. I just thought
5 it would be appropriate to show him the Title 9
6 Victim's Rights form because I think that that was
7 something that -- it appears it was given to
8 Elisabeth Doherty on the night.

9 MR. ANGUEIRA: Let's ask him because
10 the other gentleman didn't know what that was.

11 MS. SULLIVAN: Okay.

12 BY MR. ANGUEIRA:

13 Q. First of all, do you know what that
14 document is?

15 A. Absolutely. I give it out every time
16 somebody talks to me about sexual misconduct at all.

17 Q. And that's Exhibit 2. What do you mean
18 you give it out? Who do you give it to first of
19 all?

20 A. So I'm one of the named people that
21 somebody can come to and report sexual misconduct on
22 campus. Any time that somebody meets with me or
23 talks with me on the phone, I try to schedule a
24 meeting with me if possible. These two documents --

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1 that's the one-page of the reference guide. So
2 these are documents that we -- that I would give out
3 any time that I spoke with somebody who is alleging
4 any sort of -- not just rape, any sort of sexual
5 misconduct. And Nicolle does that as well.

6 Q. In this particular case that's a document
7 that was signed by Ms. Doherty?

8 A. Correct.

9 Q. And do you know what time of the day or
10 what date it was signed?

11 A. I don't. Well, the date says August 14 --
12 or August 30th, 2014.

13 Q. Was that on the same day that she reported
14 the allegations?

15 A. I don't remember specifically, but I can
16 just tell you in general it's usually when we meet
17 with the student, you know, at that time or when we
18 have the formal meeting the next day.

19 Q. So when you say when we meet with the
20 student or have a formal meeting, is that something
21 that happens after the initial intake of the
22 allegation?

23 A. Not -- so this is where it's difficult on
24 a college campus. So many times incidents are

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1 reported at 2 o'clock in the morning, in the middle
2 of the night. So our campus police and our hall
3 directors and such are given this information that
4 they can give out to the students; however, as a
5 Title 9 coordinator, you know, Nicolle and me, the
6 deputy Title 9 coordinator, we want to make sure
7 that it didn't just stop there, that it didn't just
8 stop with, here, we gave you this piece of paper,
9 now figure it out. So we always reach out to the
10 student and try to set up a meeting with them.
11 Sometimes they don't want to talk to us, but we
12 always try to set up a meeting so I can have a
13 personal conversation to make sure that they really
14 understand what they were given. In this case I
15 believe Nicolle came on campus that night, and she
16 would have been speaking with her directly.

17 Q. Okay. Is Nicolle still with the school?

18 A. Yes.

19 Q. Okay. And do you have any personal
20 knowledge of what Nicolle told Ms. Doherty?

21 A. I don't. I wasn't there.

22 Q. Do you know if Nicolle offered Ms. Doherty
23 any counseling services?

24 A. I don't know personally if she -- you

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1 know, I wasn't there.

2 Q. Do you know if Ms. Doherty was offered any
3 medical assistance?

4 A. Again I don't know because I wasn't there
5 but --

6 Q. Well, not just from being there but from
7 any information you received later on, do you know
8 if she went to any hospital, had a rape kit done on
9 her or anything like that?

10 A. I don't recall in this case -- I don't
11 recall.

12 Q. One way or the other?

13 A. Yeah, I don't recall one way or the other.

14 Q. At the end of the hearing, the Title 9
15 hearing in this case, there was a deliberation,
16 correct?

17 A. Correct.

18 Q. We have the audiotape of the hearing, and
19 I played segments of it for the other witness, and
20 I'm trying to avoid doing that in this case with you
21 if I can. But what was not recorded in any way were
22 the actual deliberations. Was that standard
23 procedure at your school?

24 A. It is, yeah.

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1 Q. Why?

2 MS. SULLIVAN: Objection. You can
3 answer if you know.

4 THE WITNESS: I -- I didn't create
5 that policy. I do know that that is relatively
6 standard at institutions that I've been at, and also
7 at -- you know, I've gone to conduct conferences
8 where we have extensive training on -- and this is
9 all since then. What I can say is that typically in
10 a deliberation, you know, we're talking about
11 sometimes other students, we're talking about the
12 connection between the students. And I think what
13 tends to happen is if -- especially during a
14 deliberation, you know, you have to -- you have to
15 really -- you have to dig in, and you have to
16 challenge yourself and each other on things. And so
17 I just think that's a reason why they don't -- they
18 want to record the hearing so that nothing is
19 missed.

20 Typically the main reason that the
21 hearing is recorded is mainly so that, if we needed
22 to, especially during deliberation, we can go back
23 and listen to something, and, you know -- so during
24 the -- really the recording is more for us to go

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1 back during deliberation if we need to ever go back
2 or during the appeal process if we need to go back
3 and listen to the actual hearing. So there isn't
4 really a reason that they would typically record the
5 deliberation.

6 BY MR. ANGUEIRA:

7 Q. Are there any policies or procedures
8 regarding the proper way to conduct a deliberation
9 in terms of what should be said, what should not be
10 said?

11 A. Not -- I don't know that I would say that
12 it's specific training on deliberation, but it's
13 more calling on our knowledge and our training, you
14 know, such as the training when we're talking about
15 credibility, because that is part of -- that
16 conversation is, you know, what came up and pulling
17 together the pieces and -- so we do, we call on
18 our -- I guess the way that I can say it is it's
19 not -- it's not like we sit down and have a specific
20 training on deliberation.

21 Q. Okay. So if the deliberation is being
22 conducted properly and nobody is saying anything
23 that should not really be said inappropriately --

24 MS. SULLIVAN: Objection.

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1 BY MR. ANGUEIRA:

2 Q. -- why would you not want to have a record
3 of what's said?

4 MS. SULLIVAN: Objection.

5 THE WITNESS: Again I wasn't part of
6 creating that policy, so I'm not sure why it was
7 written that way. But, you know, it's relatively
8 standard on college campuses that -- as a matter of
9 fact, most conduct cases in general are not
10 recorded, so even non -- mostly non-sexual
11 misconduct cases are not recorded at all during
12 deliberation.

13 Q. I understand that you've said that. I'm
14 just trying to get your understanding of the
15 rationale, if you have any, as to why you would not
16 want to have a record of what the persons on the
17 hearing panel were actually saying during the
18 deliberation. Can you think of any rationale for
19 that?

20 MS. SULLIVAN: Objection. You can
21 answer.

22 THE WITNESS: No. I mean I don't
23 have -- I don't know the rationale, and I don't know
24 that I -- I don't have a strong opinion one way or

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1 another. But I think if I could -- you know, I
2 would say that it could -- yeah, I really -- I don't
3 have a strong opinion one way or another, and I
4 wasn't -- you know, and I wasn't part of creating
5 that policy.

6 BY MR. ANGUEIRA:

7 Q. So let's say during a deliberation one of
8 your panel members might make a comment that you as
9 the head or a chairperson thought was inappropriate,
10 like, you know what, that girl was asking for it,
11 she didn't scream loud enough, she wanted to have
12 sex; is that a proper part of the deliberation, to
13 have a comment like that from a panel member?

14 MS. SULLIVAN: Objection. But you
15 can answer.

16 THE WITNESS: Is it proper for
17 somebody to say something like that during a
18 deliberation? Is that what your question was?

19 BY MR. ANGUEIRA:

20 Q. Yes.

21 A. I don't think it's an appropriate
22 statement for -- I don't think that that is
23 something that -- well, one, it would not be
24 something that would be -- it would not impact the

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1 outcome, especially because that's something that
2 is -- and I think -- I even believe -- I remember
3 even saying something like that just to clarify
4 during the hearing process to Ms. Doherty about --
5 just explaining certain things to her and making
6 sure she understood why we ask certain questions,
7 why we have to ask some of these questions.

8 During the deliberation certainly
9 nothing like that would -- did come up because I
10 would remember it. It would stick out to me. If
11 something like that came out in the deliberation,
12 then I absolutely would -- I personally would
13 correct that, if there was something like that.

14 Q. And how would you correct it?

15 A. Well, one, I would say that it -- you
16 know, that it's inappropriate, that it's not
17 something that we should be considering, and I would
18 make sure that anybody -- in this case it's three of
19 us, so that would be one other person, you know --
20 so in that case during the deliberation I would say
21 that's not something that we can be using when we're
22 considering the outcome of this case.

23 Q. Would that kind of a statement indicate to
24 you some element of bias or prejudice?

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1 A. If the statement was she was asking for
2 it?

3 Q. Or comments to that effect, like they
4 didn't believe the victim either because of the way
5 that she was dressed or she didn't scream loud
6 enough or she probably wanted it, things to that
7 effect that you knew were inappropriate, would that
8 indicate to you some element of bias or prejudice by
9 that hearing officer?

10 A. Well, I think there's a difference between
11 somebody that says she was dressed inappropriately
12 so she was asking for it -- I think there's a
13 difference between a statement like that and a
14 statement like -- you know, talking about -- because
15 I do remember during this case one of the things
16 that we had to look at quite a bit was the fact that
17 there were other people in the room or in the suite
18 at various times, and we had -- it was a key piece
19 of this case. So we had to get to the bottom -- or
20 get as much information as we could about the level
21 of noise somebody was making or what the -- what a
22 scream -- what a quote, unquote, "scream" was and
23 things of that nature.

24 So if during the deliberations

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1 someone was talking specifically about that moment,
2 that scream or the decibel level or whatever, I do
3 think that's appropriate to talk about that during
4 this particular case because it was so critical in
5 determining if it was -- if we could determine that
6 it was more likely than not that a sexual misconduct
7 occurred.

8 Q. So you didn't answer my question. So let
9 me ask it again.

10 A. Sure.

11 Q. And what I'm trying to do is to ask you
12 questions unrelated to your actual deliberation in
13 this case. And I will --

14 A. Okay.

15 Q. -- in a few minutes. You keep going to
16 that.

17 My question is, if you hear a panel
18 member during deliberations make a comment like the
19 ones I suggested, would that indicate to you
20 possible prejudice or bias against a rape victim?

21 A. Again I think it's -- because there were a
22 couple statements that you made. One, is if there
23 was -- if there were statements made about she was
24 asking for it because of what she was wearing, then,

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1 yes, that's inappropriate, and that should not be
2 asked. But if it's more about -- these situations
3 are very difficult, and you have to think through a
4 lot of the different scenarios that occurred, and
5 you don't always know every piece of it. So I can't
6 say that there wouldn't be certain comments that
7 people would make to determine credibility, to
8 determine if the -- if the student had -- you know,
9 what was going through their mind or what was
10 happening in that moment or did their mind change,
11 you know, so -- so as --

12 So specifically to the comment of if
13 she was asking for it because it was -- you know,
14 what she was wearing or that -- those types of
15 comments, yes, that is inappropriate.

16 Q. What would you do if you suspected that
17 one of your panel members was biased or prejudiced
18 against a rape victim?

19 A. After the --

20 Q. During the deliberation.

21 A. During the deliberation?

22 Q. Yeah.

23 A. If there was a -- so after the hearing had
24 occurred and we were in the deliberation stage, and

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1 I felt as though there was a strong bias between --
2 or from one of the panelists, what I would -- what I
3 would do personally is first I would consult with
4 the Title 9 coordinator. Title 9 coordinator is
5 supposed to be -- is, you know, the unbiased, you
6 know, person that is overseeing the procedures, and
7 then I would determine if it was appropriate or
8 allowed in our policy to have that person recuse
9 themselves from the decision.

10 Q. Okay. What vote is required on these
11 Title 9 hearings? Unanimous or less than unanimous?

12 A. I'm trying to think back to our policy at
13 that time. I don't remember for the policy at the
14 time because we review those policies every year. I
15 know that in this case it was unanimous; however, I
16 don't remember if it was the majority or if it's
17 unanimous.

18 Q. Now, you heard Ms. Doherty testify at the
19 hearing, correct?

20 A. Yes.

21 Q. And did you take into consideration the
22 witness statements from the various witnesses that
23 were provided to you by the investigators?

24 A. Did we -- yes.

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1 Q. And did you take into consideration the
2 relationships between those witnesses and the
3 respective parties in this case, that being
4 Mr. [REDACTED] and Ms. Doherty?

5 A. Yes.

6 Q. What was the nature of the relationship
7 between [REDACTED] and Mr. [REDACTED]

8 MS. SULLIVAN: Can you --

9 MR. ANGUEIRA: And by the way, you
10 can look at any document and --

11 MS. SULLIVAN: Can he have a chance
12 to review this?

13 THE WITNESS: I remember this case
14 and it's actually pretty common on this campus --
15 students have a lot of nicknames, so I have a hard
16 time remembering --

17 BY MR. ANGUEIRA:

18 Q. That's okay. I was going to suggest that
19 you could look at anything you want to look at to
20 refresh your memory or to respond to any of my
21 questions.

22 A. Okay.

23 Q. You're looking at the unredacted version
24 of Exhibit 10 now, which has the names of all the

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1 witnesses, just so the record is clear what you're
2 looking at. And your lawyer can help you to find
3 certain parts if she wants to.

4 Why don't we go off the record while
5 he's doing that.

6 (Discussion held off the record.)

7 BY MR. ANGUEIRA:

8 Q. So my question I think was, what was the
9 nature of the relationship between [REDACTED] and
10 Mr. [REDACTED]

11 A. Now I 'm remembering why I had a hard time
12 remembering, because -- so [REDACTED] was the -- I guess
13 she reported that she was his girlfriend I believe;
14 however, she was not the person that came to his
15 room later on in the night. So I was thinking in my
16 mind that it was somebody else that was his
17 girlfriend. But, yes, she was -- she, based on her
18 statement, was saying that she was his girlfriend.

19 Q. So your memory is that [redacted] never gave a
20 statement or reported that she came to his room
21 later that night with another woman?

22 MS. SULLIVAN: Objection. That was
23 not even remotely what he just said.

24 MR. ANGUEIRA: I'm not asking him

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1 what he said. I'm asking a different question.

2 BY MR. ANGUEIRA:

3 Q. Was there any evidence that [REDACTED] came to
4 [REDACTED] room that night with another woman?

5 A. Yeah. So we -- yes, there was -- one of
6 the pieces of the case was that there were two -- I
7 think it was originally reported that there were --
8 more in her original statement -- that was the
9 original statement, that there were people that came
10 to the door knocking. I'm just having a hard time
11 recalling in this moment which one was stated that
12 came to the door.

13 Q. I don't want you to -- it's not a memory
14 test. If it's in the investigation report, which
15 you have in front of you, and your lawyer can help
16 you. What is the name of the woman who came to
17 [REDACTED] room while Elisabeth was in the room and
18 knocked on the door?

19 A. So [REDACTED] -- it says [REDACTED] [REDACTED] was the
20 one that came to the room and knocked on the door.

21 Q. Okay. And who was the woman that was with
22 her? Your lawyer can help you with that, too.

23 Maybe I could ask another question
24 while you're looking. Is that okay with you?

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1 MS. SULLIVAN: Yeah, sure.

2 MR. ANGUEIRA: Let me ask you a
3 different question while your lawyer finds the
4 information that may be helpful.

5 BY MR. ANGUEIRA:

6 Q. You said that it was determined somehow
7 that -- or you believe that [REDACTED] was [REDACTED]
8 girlfriend, correct?

9 A. Yes.

10 Q. I didn't see anything in any of these
11 investigation reports, including [REDACTED] own
12 statements, where it says that she was the
13 girlfriend. Did you find something like that?

14 A. Yes. It says, "Saturday night I was told
15 by my boyfriend to come to his room after I left the
16 party." This is her talking about [REDACTED]

17 Q. This is [REDACTED] statement. And you're
18 looking at Exhibit -- what number is that?

19 A. Nine.

20 Q. Okay. So now is it clear in your mind
21 that she is the one that went and knocked on the
22 door?

23 A. Correct, yes.

24 Q. And she says that her boyfriend [REDACTED]

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1 told her to come over?

2 A. Yes.

3 Q. Okay. Why would he ask her to come over
4 if he's having sex with another woman?

5 A. We'd have to look back at her statement,
6 but I believe she said that he was texting her
7 earlier in the night to come over.

8 Q. Okay. So that conversation about her
9 coming over, according to the context of this
10 investigation, was an earlier communication before
11 he asked Ms. Doherty to come over?

12 A. It appears that way, yes.

13 Q. And has your lawyer pointed out something
14 that may be helpful with the other question?

15 MS. SULLIVAN: About the friend.

16 MR. ANGUEIRA: Yes. The name of
17 [REDACTED] friend who she just identifies as a friend.

18 MS. SULLIVAN: There's something in
19 this report about a friend from home and not from
20 school.

21 BY MR. ANGUEIRA:

22 Q. Let me ask you a different question while
23 she continues to look at that.

24 When you do an investigation like

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1 this, is the witness's ability to recall events an
2 important and relevant part of the investigation?

3 A. Yeah.

4 Q. And is the nature of the relationship
5 between the witnesses and the principals involved
6 also important?

7 A. Yes.

8 Q. So we know that [REDACTED] was [REDACTED]
9 girlfriend, correct?

10 A. Yes.

11 Q. And you certainly understood from your
12 training and your own life experiences that there
13 are times when friends will lie to protect other
14 friends, correct?

15 A. Yes.

16 Q. Were you aware that there are times when
17 women will lie to protect their boyfriends if
18 they've been accused of sexual misconduct against
19 other women?

20 A. It's conceivable that somebody would lie
21 for their partner, yes.

22 Q. Especially if their boyfriend is facing
23 rape charges, may be thrown in jail, loses a full
24 scholarship, and be thrown out of school?

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1 MS. SULLIVAN: Objection.

2 THE WITNESS: I mean, yes, it's
3 conceivable that somebody would lie.

4 BY MR. ANGUEIRA:

5 Q. Do you know whether or not [REDACTED] was
6 lying?

7 A. I don't know if she was lying, but it was
8 something that was put into the assessment of
9 credibility. It's something that we think about
10 when we're looking at what their relationship is.
11 In this particular case I remember -- and this is
12 why I had a hard time remembering [REDACTED] because it
13 seemed like he had multiple girlfriends, quote,
14 unquote, "girlfriends." So we didn't necessarily
15 treat [REDACTED] as if she was his, you know, long-term
16 girlfriend. We more -- you know, our students use
17 terms like boyfriend, girlfriend or hookup, and that
18 means different things to different people. So for
19 us we kind of looked at this as somebody that had a
20 potentially sexual relationship with this person but
21 not necessarily a long-term girlfriend, because we
22 didn't have enough information on that.

23 Q. Have you found something that assists us
24 in identifying who the person was that was with

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1

2 A. So it doesn't have the name of [REDACTED]
3 friend. It's her friend from home it says. So this
4 was somebody that [REDACTED] -- so [REDACTED] was with Nye,
5 she goes by Nye, but Nye wasn't the one -- it
6 doesn't appear as though Nye was the one that went
7 to the door. It was [REDACTED] friend from home.

8

Q. So when was [REDACTED] with Nye?

9 A. [REDACTED] was with Nye when she went back --
10 it says -- [REDACTED] went in to take a shower, and Nye
11 went down the hall to speak to [REDACTED] and --

12

Q. Just read it to yourself; otherwise, she
13 has to --

14

A. Sorry. So it looks like -- so I'm
15 wondering if Nye was [REDACTED] roommate, but it looks
16 like [REDACTED] went back -- after [REDACTED] went to the room
17 and knocked on [REDACTED] door, she went back and told
18 Nye what happened.

19

Q. Was there any effort made to determine
20 whether or not [REDACTED] was intoxicated or under the
21 influence of alcohol or drugs at the time of these
22 interactions?

23

A. I don't know to what extent the
24 investigators would have checked that information,

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1 but --

2 Q. Should they have?

3 A. It's a -- it's a question that we -- it's
4 good to know, but it's --

5 Q. Why is it good to know?

6 A. Well, it's not -- it's not always
7 necessary, but it is something just to -- you know,
8 just to know if people were -- especially if we want
9 to know if they were together at the party prior or,
10 you know, were they drinking right before the event,
11 how long had it been since they stopped drinking,
12 all that.

13 Q. You don't think it's relevant to the
14 witness's ability to recall events whether or not
15 they were under the influence of drugs or alcohol?

16 A. Yeah.

17 Q. So then what was the level of sobriety of
18 [REDACTED] or her friend from home at the time that she
19 was involved in these events if you know?

20 A. I don't know.

21 Q. Okay. Did any of your investigators or
22 the panel members know the state of sobriety of any
23 of these witnesses that were investigated by your
24 investigators?

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1 A. We wouldn't have known no more or less
2 than we would have any -- you know, the people
3 involved in it. So we didn't necessarily know --
4 unless it came up, unless they asked in here and we
5 have their statement -- that they said something
6 like the person had been drinking at a party or
7 something like that, but we wouldn't know their
8 level of sobriety.

9 Q. But did the investigators try to determine
10 their level of sobriety? Because people can have
11 one shot and be fine or be pounding down shots and
12 be totally inebriated and therefore their memory
13 affected.

14 So my question is, did these
15 investigators report to you and other panel members
16 the level of sobriety of any of these individuals?
17 Yes or no?

18 A. No, not that I recall.

19 Q. They did report for certain individuals
20 who said they had been drinking, correct?

21 A. Correct.

22 Q. Were any of the witnesses asked if they
23 had taken any illegal drugs?

24 A. I don't recall.

Matthew Scott

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1 Q. Was there an alcohol policy at this school
2 at the time?

3 A. Yes.

4 Q. Is it similar to most of the institutions
5 in the country that underage drinking is prohibited?

6 A. Yes.

7 Q. What were the ages of the people that the
8 investigators during the course of their
9 investigation determined were drinking?

10 A. I don't know.

11 Q. Were they underage and therefore illegally
12 drinking on campus?

13 A. I don't know. However, in our sexual
14 misconduct policy one of the things that we have to
15 do is give -- we can -- we have an alcohol amnesty
16 policy that allows us to make sure we get to the
17 root of when sexual misconduct is -- if there's an
18 alleged sexual misconduct we don't want people to
19 fear coming forward with their -- you know, the
20 accusation or coming forward as a witness because we
21 don't want them to hold anything back. So we
22 wouldn't have -- even if we did find out that
23 somebody was underage, we wouldn't have held them
24 responsible from a conduct perspective. We would

Matthew Scott

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1 have a conversation with them about it, but -- yeah,
2 so just so you know, that would be a reason why we
3 wouldn't have done that, because of our alcohol
4 amnesty policy.

5 Q. Well, did anybody have a conversation with
6 any of these witnesses because they were involved in
7 underage drinking to your knowledge?

8 MS. SULLIVAN: Objection.

9 THE WITNESS: I don't know.

10 BY MR. ANGUEIRA:

11 Q. Did you ever speak with [REDACTED] [REDACTED]
12 yourself?

13 A. No.

14 Q. Did you ever hear any recorded statement
15 that he gave?

16 A. No.

17 Q. Did you ever ask Mr. [REDACTED] -- and by
18 "you" I mean the school -- to appear for this
19 hearing?

20 A. Did we ask him to?

21 Q. Yes.

22 A. Yes.

23 Q. And he chose not to, right?

24 A. Yeah. By the time this happened, I

Matthew Scott

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1 believe he was no longer a student, so he chose not
2 to be -- he didn't want to have any part of it.

3 Q. Well, whether he was a student or not, he
4 had the right to be there or not be there, correct?

5 A. Yes.

6 Q. And did the school have the authority to
7 ask the witnesses that they had interviewed to be
8 present at the hearing if they thought their
9 testimony live before the panel members was
10 relevant?

11 A. Yes.

12 Q. Could they have called them?

13 A. Yes.

14 Q. How many of the witnesses did this panel
15 call to the hearing?

16 A. We didn't have any witnesses at the actual
17 hearing.

18 Q. Whose decision was it not to call any of
19 the witnesses?

20 A. We -- so the panel met prior to go over
21 the documentation, make sure that everybody
22 understood the process, and during that time we did
23 discuss if we felt like we needed any more
24 information to -- you know, to pull in any more

Matthew Scott

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1 witnesses, and we decided that we didn't -- we felt
2 that we had enough.

3 Q. Now, after you heard Ms. Doherty's
4 testimony and after you considered all of the
5 evidence presented in this case, did you make a
6 decision in your mind as to the credibility of
7 Ms. Doherty's account of what happened?

8 A. Assessing credibility was part of it, yes.

9 Q. And did you believe that any part of her
10 account of what she believes happened was not
11 credible or not true?

12 A. There were -- there were concerns about --
13 and certainly this came up, about the fact that
14 there were multiple people that came in and out to
15 the room or were around at the time, and, you know,
16 there was no effort -- you know, there was nothing
17 that was -- it didn't appear as though she was
18 actively trying to get anybody to recognize that
19 something was occurring. So that was a piece of it.

20 Another piece is as part of that --
21 because again when you think of a -- you know, a
22 victim of sexual assault or sexual misconduct or
23 rape, I understand that there is a -- everybody
24 responds differently. So, you know, in this

Matthew Scott

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1 situation we were also assessing -- trying to think
2 of the right way to say this -- the -- she never
3 made -- she never mentioned being -- having any
4 fear, being in fear, that he had threatened her
5 directly. So given the fact that she said that she
6 had -- was not -- that she never made any mention of
7 being in fear or that he didn't threaten her in any
8 way, one of things that we had to look at was would
9 a reasonable person assume that she -- if she was
10 not in fear, if she would make some -- some noise or
11 some -- some meaningful effort to get one of the
12 people in the room or in the suite to know that
13 something was occurring, especially people that she
14 was friendly with in the suite.

15 So I think that was a big moment,
16 and that was a big thing that we did talk about.
17 I'm trying to think back to what else we would have
18 talked about.

19 There was mention of her being -- I
20 think she said embarrassed or -- you know, when
21 the -- when the people came to the door and were
22 knocking on the door, she mentioned something about
23 being embarrassed. And, you know, she said -- I
24 think she said she was scared or something like

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1 that. And I believe I asked what do you mean by
2 that, and she said something like, well, I know if
3 somebody was hooking up with my boyfriend, I'd be
4 mad.

5 And that was another thing that we
6 talked about is, if you are being -- if you are --
7 if you're being raped -- you know, obviously it's a
8 difficult situation to know everything that's
9 happening, but if you're being raped and now after
10 the fact you're talking about it, it didn't seem
11 like she -- her focus in that moment was on him and
12 on what he was allegedly doing. It was more on the
13 people at the door and that she was fearful of them
14 and of their retaliation and of the fact that they
15 would know that she's hooking up with their
16 boyfriend.

17 So it was very difficult for us to
18 say that it was more likely than not that a sexual
19 assault occurred because we didn't have enough
20 evidence to say that it did.

21 Q. Have you finished or is there anything
22 else?

23 A. Yeah.

24 Q. That was it?

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1 A. That's all I can recall. Those are some
2 of the big moments that I can recall us speaking
3 about.

4 Q. So you said that she basically didn't make
5 enough effort to get some attention, to let people
6 know that were in the room or near the room to be
7 able to hear her need for help, in summary. Is that
8 fair?

9 A. Yes. I want to make sure that -- when I
10 say she didn't make enough effort, I want to make
11 sure it doesn't sound like I'm saying if a victim is
12 in that situation, they have to be the one that's
13 making -- but what I'm saying is -- and it's
14 important if we're talking specifically about this
15 case. I remember we did look at the relationship
16 between her -- and I think it was █ is one of the
17 people in the room and █ is another one. And
18 it seemed as though there could have been something
19 that she could have done, even if it wasn't
20 screaming at the top of her lungs, which I believe
21 she did say -- you know, when she went back, that's
22 what she told her suite mates, that she was
23 screaming and nobody did anything. But that's not
24 how she described it to us, so there's some

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1 inconsistency there.

2 It just felt as though she could
3 have done something that would have made █
4 especially who was her -- who she was friendly with
5 at some point, that she could have done something
6 that would have indicated that she didn't want to be
7 there.

8 Q. What was the -- in terms of the timing of
9 these events, when █ was allegedly raping this
10 woman and she kept saying no, no, no, please stop,
11 according to her testimony, where was █ during
12 that precise moment?

13 A. I'd have to try to recall the timeline we
14 put together.

15 Q. Take a look at it --

16 A. Sure.

17 Q. -- so that you understand my question.
18 There's going to be a series of questions here --

19 A. Sure.

20 Q. -- and they're all geared towards this.
21 You're telling us that someone should have heard
22 her. That's what you're really saying. Therefore
23 somebody has to be in a position to hear and able to
24 hear. So my questions are going to be, all the

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1 people that you claim should have heard her, where
2 were they, what time they were there, and whether
3 they were awake, and what was their state of
4 sobriety?

5 So as you read this investigation
6 report, think about all those issues and have
7 answers ready for me. I'll give you all the time
8 you want.

9 MS. SULLIVAN: All right. We're
10 going to go take a break.

11 MR. ANGUEIRA: Sure.

12 (Recess taken.)

13 BY MR. ANGUEIRA:

14 Q. All right. Have you had a chance to
15 review any document that you needed to review? So
16 could you answer those questions? Do you want it
17 read back?

18 MS. SULLIVAN: Yeah.

19 MR. ANGUEIRA: Why don't you read to
20 the witness the series of questions that I wanted
21 him to think about while he was reviewing the
22 documentation, and then we'll break them down.

23 I'm going to save you some time.
24 Let's just keep going.

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1 BY MR. ANGUEIRA:

2 Q. Part of the evidence that you relied upon
3 was the presence of other witnesses that you believe
4 should have been able to hear or see something out
5 of the ordinary or unusual based on what Ms. Doherty
6 reported, correct?

7 A. Correct.

8 Q. And those -- some of those witnesses were
9 [REDACTED] and [REDACTED] correct?

10 A. They were two of them, yes.

11 Q. Okay. Who else other than [REDACTED] and [REDACTED]

12 A. Nye.

13 Q. Okay.

14 A. And [REDACTED] was in the suite but -- yeah.

15 Q. So "in the suite" you mean in [REDACTED]
16 room?

17 A. Well, [REDACTED] room was the living room,
18 so it's the bedroom on the other side of the living
19 room.

20 Q. Okay. And are the bedrooms separated by
21 doors?

22 A. The bedroom is separated from the living
23 room with a door, yes.

24 Q. Was the door open or closed during the

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1 events that you believe he should have heard
2 something?

3 A. I don't recall if we had that information.

4 Q. Okay. What was [REDACTED] location in [REDACTED]
5 room? Where did you believe that he was when he
6 should have heard something?

7 A. He came into the suite and went into the
8 bathroom, and the bathroom is directly connected to
9 the living room where they would have been, and
10 turned on the light.

11 Q. Okay. So let's stick with just one person
12 at a time. Let's go to [REDACTED] Okay? Was [REDACTED]
13 in [REDACTED] suite the entire time that the events
14 occurred?

15 A. Yes, I believe so.

16 Q. Okay. Was he awake or asleep?

17 A. I believe it was reported that he was
18 asleep.

19 Q. Okay. Had he been drinking that night or
20 taking any drugs?

21 A. That I don't know.

22 Q. Did anybody ask him as part of this
23 investigation what his state of sobriety was during
24 these events?

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1 A. I don't recall.

2 Q. Okay. So if you made the assumption that
3 [REDACTED] was awake, is that -- strike that. Did you
4 make the assumption that he was awake, and therefore
5 he should have heard something?

6 A. No.

7 Q. Did you assume that [REDACTED] was sound
8 asleep and drunk and should have heard something?

9 A. No. We depended less on [REDACTED] -- yeah.

10 Q. Okay. So let's move on. [REDACTED] when did
11 [REDACTED] get to the room, [REDACTED] room?

12 A. I remember specifically asking Elisabeth
13 about that. She didn't know the exact time, so lots
14 of the time, you know, the timeframes were fuzzy.
15 So I don't know exactly when that happened, but I
16 know that she -- that it was -- I can't say that I
17 know. I believe that she said it was before the
18 people came knocking on the door.

19 Q. Okay. So do you know if [REDACTED] was in the
20 room at the time that the assault first began when
21 she was saying no, no, please stop?

22 A. I don't know if it was when it first
23 began. I don't.

24 Q. Do you know if [REDACTED] was in the room at any

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1 point in time before [REDACTED] and her girlfriend
2 knocked on the door?

3 A. If [REDACTED] was in the room before [REDACTED] and
4 her friend -- I specifically remember asking her
5 about that, so in the hearing you would have -- you
6 can hear that. I don't remember off the top of my
7 head if it was before or after the knocking, but I
8 remember clarifying that.

9 Q. What was [REDACTED] state of sobriety during
10 these events?

11 A. I don't know.

12 Q. Do you know what [REDACTED] physical
13 relationship was or proximity to where these events
14 occurred between Mr. [REDACTED] and Ms. Doherty at the
15 time you claimed that he should have been able to
16 hear something?

17 A. Well, if he's walking through the living
18 room, which is where this would have been occurring,
19 it would have been -- I mean I would say the
20 furthest he could be away from them is maybe six
21 feet --

22 Q. Okay.

23 A. -- seven feet.

24 Q. What was the nature of the relationship

Matthew Scott

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1 between █ and █

2 A. They were suite mates I guess.

3 Q. Were they on the football team together?

4 A. Yes, I believe so.

5 Q. Okay. What was █ physical size in
6 comparison with Ms. Doherty's?

7 A. He's larger than Ms. Doherty, yeah.

8 Q. What -- did you ever meet him or review
9 anything about his physical dimensions?

10 A. I didn't meet him specifically. I did --
11 I do remember seeing pictures of him and looking him
12 up on the -- the roster, the football roster.

13 Q. What was his height and weight?

14 A. I don't remember. I remember Elisabeth
15 guessed, she said something in the mid 200s maybe or
16 something like that.

17 Q. With respect to -- so you said that █
18 said he got to the room and then went to the
19 bathroom? What is it that █ told the
20 investigators he did?

21 Let him answer. Or was he in the
22 room the whole time --

23 A. I --

24 Q. -- or do you know?

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1 A. I'm -- well, you asked what he told the
2 investigators, so that's what -- I can tell you what
3 I remember from the hearing is that Elisabeth said
4 that she saw █ and a girl come into the apartment
5 or into the suite --

6 Q. I don't mean to interrupt you. I don't
7 really care what Elisabeth said right now. I want
8 you to tell me what your investigators found out
9 when they talked to █ as to what █ claims that
10 he did, saw, and heard, please. That's what I want
11 to hear from you.

12 A. Okay. He said that he came into the suite
13 at first. He said he went to the bathroom to brush
14 his teeth, and he said he had Nye with him. I think
15 he first said it was a girl with him and that they
16 were in his room.

17 Q. Okay.

18 A. That's where they were hanging out, but
19 that he went through and went to the bathroom to
20 brush his teeth.

21 Q. Did █ tell you what time they got to the
22 room?

23 MS. SULLIVAN: Objection. You're
24 talking about the investigation report, not who told

Matthew Scott

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1 him anything?

2 MR. ANGUEIRA: Yeah, I'm sorry.

3 MS. SULLIVAN: And you were the one
4 that wanted to make that clear.

5 BY MR. ANGUEIRA:

6 Q. Yeah, absolutely. In other words, did you
7 receive information from the investigators as to
8 what time [REDACTED] got in the room?

9 A. Yeah. He said around 2:30, right, I
10 think.

11 Q. In terms of the timing of the events as
12 reported by Ms. Doherty, at what stage of the
13 proceedings was -- were these events occurring in
14 relationship to when [REDACTED] got to the room?

15 A. I'm sorry, can you repeat that one more
16 time?

17 Q. Sure. [REDACTED] got to the room, and according
18 to Ms. Doherty's account at what point in time did
19 he get to the room when these events were happening?

20 A. So -- so in terms of our timeline, Nye
21 said that she went to go visit him around 2:00, and
22 Elisabeth said she was there between what, 2:08 and
23 2:10. So that would imply in that case that [REDACTED] was
24 already in the room, that Nye went to go visit him.

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1 And then again I think if you go back to the
2 hearing, I did specifically ask was █ in there
3 prior to or after the knocking that happened on the
4 door. So I think that's important because she
5 does -- I remember her saying I didn't know the
6 exact time, but then she told me if it was after or
7 before. So it helps to put that into the timeline.

8 Q. Did Ms. Doherty ever see █ in the room?

9 A. Yes. She said she saw him come into the
10 room, yeah.

11 Q. And did she tell the investigators to your
12 knowledge when she saw █ in relationship to what
13 was happening with █

14 A. I don't recall. Do you want me to look?

15 Q. No.

16 A. I don't recall, but I do remember
17 asking -- because one of the things we wanted to try
18 to determine was again why she wouldn't have said
19 something to him. And, you know, she -- that's when
20 she was talking about being embarrassed or whatever.
21 So it would make sense that it was happening -- that
22 █ was walking through when something was occurring
23 because she -- otherwise she would have said this is
24 before any of that happened, you know.

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1 Q. So you made a lot of assumptions about the
2 events?

3 MS. SULLIVAN: Objection.

4 THE WITNESS: We used the
5 more-likely-than-not standard, so we have to
6 determine was it more likely than not that that's
7 how it occurred.

8 BY MR. ANGUEIRA:

9 Q. And what standard did you use to determine
10 the level of sobriety of [REDACTED] and Nye?

11 A. It would be -- we would have used anything
12 that we would have had or anything that they would
13 have said. So if anybody told us that they had been
14 drinking or if it had come up in conversation during
15 the hearing.

16 Q. Did the investigators ask or provide any
17 information to you regarding the state of sobriety
18 of Nye or [REDACTED]

19 A. Nye or [REDACTED] I don't recall. I could look.

20 Q. If they did, it would be in the report,
21 correct?

22 A. Correct.

23 Q. Okay. All right. So we have [REDACTED] Nye,
24 and [REDACTED] that we talked about. The only one we

Matthew Scott

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1 haven't spoken about is [REDACTED] And you said that
2 [REDACTED] identified herself as [REDACTED] girlfriend,
3 correct?

4 A. In her statement, yes.

5 Q. What information did the investigators
6 provide to you about [REDACTED] state of sobriety?

7 A. I don't believe there was anything in
8 here, just that she was at a party downtown and was
9 getting texts from [REDACTED] so -- yeah.

10 Q. So at the time of the hearing you had
11 looked at all this evidence, all the investigators'
12 report, knew that there was nothing in there to
13 indicate the state of sobriety of any of these
14 witnesses, and the panel chose unanimously not to
15 call any of these witnesses, correct?

16 A. Correct.

17 Q. By the way, what was [REDACTED] relationship
18 with [REDACTED] Was he on the football team, too?

19 A. Yes.

20 Q. So three football team members in the same
21 room --

22 A. Mm-hmm.

23 Q. -- right? And was there some kind of rule
24 at the school that if one of the football team

Matthew Scott

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1 members gets into trouble, they could get kicked off
2 the team?

3 MS. SULLIVAN: Objection. You can
4 answer.

5 BY MR. ANGUEIRA:

6 Q. If you know.

7 A. I mean that's a possible outcome of
8 conduct cases, yes.

9 Q. Certainly if you're accused of rape and
10 the rape is proven, you'd probably get kicked off
11 the team and out of the school, correct?

12 A. If you are found responsible for rape --

13 Q. Yes.

14 A. -- yes.

15 Q. And if you're part of a football team and
16 one of your star players is accused of rape and
17 thrown off the team, that's going to hurt the whole
18 team, right?

19 MS. SULLIVAN: Objection.

20 THE WITNESS: If he was a star
21 player, yes. I don't know.

22 BY MR. ANGUEIRA:

23 Q. Was he?

24 A. I don't know that.

Matthew Scott

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1 Q. Was he on some type of scholarship?

2 A. I don't know that.

3 Q. Was he first string? Second string?

4 A. I don't know that.

5 Q. Did you consider the possibility that
6 these teammates may be lying to protect [REDACTED]

7 A. We considered that everybody could have
8 been lying to us.

9 Q. Did you think that Elisabeth should have
10 screamed louder or done something more to voice her
11 objection to what was being done to her?

12 A. I think that she -- I think that there
13 were multiple opportunities for her to do something
14 that would indicate that something was not right in
15 the room.

16 Q. So you concluded that she was lying about
17 the rape and really wanted to have sex with [REDACTED]
18 and then later on decided to lie and say that she
19 was raped?

20 MS. SULLIVAN: Objection.

21 BY MR. ANGUEIRA:

22 Q. That's basically what you concluded,
23 correct?

24 A. There were multiple things that we

Matthew Scott

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1 considered. It wasn't necessarily exactly that. It
2 was -- there -- she focused very -- she focused a
3 lot on the people that came to the door. She
4 focused on being scared of them, thinking they were
5 going to beat her up, that she was hooking up with
6 one of their boyfriends. She had a boyfriend. He
7 allegedly had a girlfriend, had multiple
8 girlfriends. So I think that was something that
9 played into it, saying that we have to use that --
10 is it more likely than not that it occurred and --

11 Q. So you think she lied because she was
12 afraid of getting beat up by [REDACTED] -- one of
13 [REDACTED] girlfriends, and her boyfriend finding out
14 that she was having sex with [REDACTED] that she ran
15 out screaming, crying down the hallway and reported
16 that she had been raped to her girlfriends, crying
17 hysterically? She made that all up?

18 A. There was specifically a text that I
19 remember that said something about she doesn't --
20 she doesn't know you or she doesn't know shit or
21 something like that, and there was nothing in the
22 text messages that showed that there was any
23 conversation about that. Which was another piece
24 that made it seem as though maybe there had been

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1 some conversation that occurred in the room between
2 [REDACTED] and Elisabeth that she was concerned about
3 that they knew what happened in the room and that
4 she was scared of them.

5 So that was another piece that went
6 into that decision. I remember we asked her
7 about -- there was a missing text message, but there
8 was a text message that did say something like that.

9 MR. ANGUEIRA: I don't have any
10 other questions. Thank you.

11 THE COURT REPORTER: Ms. Sullivan,
12 do you want copies of the transcripts?

13 MS. SULLIVAN: Yes. E-trans,
14 electronic is fine.

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1 C E R T I F I C A T E

2 I, MATTHEW E. SCOTT, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript is a true and accurate
6 record of said testimony, with the exception of the
7 following corrections listed below:

8 Page	Line	Correction/Reason
9 _____	_____	_____
10 _____	_____	_____
11 _____	_____	_____
12 _____	_____	_____
13 _____	_____	_____
14 _____	_____	_____
15 _____	_____	_____
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18 _____	_____	_____
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20 _____	_____	_____
21 _____	_____	_____
22 _____	_____	_____

23 MATTHEW E. SCOTT

24 Dated this _____ day of _____, 2018

Matthew Scott

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1 COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

2 I, PENNI L. LaLIBERTÉ, Certified

3 Shorthand Reporter No. 10656 and Notary Public in
4 and for the Commonwealth of Massachusetts, do hereby
5 certify that MATTHEW E. SCOTT came before me on
6 Wednesday, March 21, 2018, the deponent herein, who
7 was duly sworn; the examination was reduced to
8 printing under my direction and control; and the
9 within transcript is a true record of the testimony
10 given at said deposition.

11 I further certify that I am neither
12 attorney or counsel for, nor related to or employed
13 by any of the parties to the action in which this
14 deposition is taken; and, further, that I am not a
15 relative or employee of any attorney or counsel
16 employed by the parties hereto, or financially
17 interested in the outcome of the action.

18 IN WITNESS WHEREOF I have hereunto set my
19 hand this 29th day of March, 2018.

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PENNI L. LaLIBERTÉ, Notary Public

My Commission expires 11/12/21